

Are We There Yet?

2013 Cochise County Law Day Speech presented by Gaetano Testini,
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Law.

Are we there yet? This phrase has been uttered by children from the back seats of cars during a road trip many times. The reason children ask this question is because children are generally excited to arrive at the targeted destination- not many children ask this question when the destination is the dentist office.

I ask this question today in regards to equality. Like the children we spoke of, I ask because I am excited to reach the destination. But before we can determine where we are, we have to review where we have been.

In 1776, The Declaration of Independence stated "All men are created equal." But we know that the term all men was chiefly reserved to land-owning white males, since they were the ones who had the right to vote. So, much like in George Orwell's classic Animal Farm, the truth was "All animals are equal, but some animals are more equal than others".

150 years ago President Lincoln issued what is now known as the Emancipation Proclamation. Contrary to popular belief, this proclamation did not free all slaves in the United States, but rather applied to only some slaves. It wasn't until 1865 that slavery was outlawed in the United States. It was not until 1870 that race was specifically removed as a barrier to voting. Despite the passage of these amendments, we had not reached equality.

Soon Jim Crow laws were passed specifically designed as barriers to equality, bolstered by the Supreme Court's decision in Plessy vs Ferguson in 1896 which allowed for separate but equal treatment under the law. An example of the separate but equal ideal was the creation of the Negro Leagues in baseball. These laws stood in place for almost six decades. Clearly we were not at equality yet.

In 1947 Jackie Robinson appeared as the first black baseball player in the modern era of the Major Leagues. Seven years later, in 1954 the Supreme Court finally ended the sanctioned inequality in its decision in Brown v. Board of Education of Topeka. No longer would separate be equal, at least not in schools - the decision did not apply to other areas of life - there segregation was allowed. Public schools were ordered to integrate, but no specific time table was ordered. Progress yes – equality – not yet.

In 1963, 100 years after President Lincoln's emancipation proclamation the Reverend Dr. Martin Luther King Jr. delivered his famous "I have a dream speech". Dr. King pointed out that we had not yet achieved equality. Over the next couple of years some of the most important strides in equality were achieved, with the passage in 1964 of the Civil Rights Act and in 1965 the Voting Rights Act. These laws provided for an end to sanctioned discrimination in the public accommodation and voting arenas; however equality had not been reached.

So what has happened in the last five decades? With the removal of overt discriminatory laws, society has made progress toward racial equality. We no longer see separate water fountains, separate seating places in restaurants or on buses. But even with this progress have we reached equality? Not yet.

Last year in Wilcox County Georgia, a bi-racial student was turned away from attending prom, because the County has always held two private separate proms, one for black students and one for white students. This year the high school in Abbeville, Ga., finally allowed an integrated homecoming court, but the winner, Quanesha Wallace, wasn't permitted to attend the "white" homecoming party because she's black. The students decided to hold a prom where everyone was invited. This is progress, but the traditional all white prom was also held. The school, which has never played a part in the separate proms, has stated it will look into sanctioning the first truly integrated school sanctioned prom next year.

Historically, in Arizona and elsewhere, ethnic minorities also suffered unequal treatment. Latinos suffered under the same types of Jim Crow laws. In 1950, almost four years before the Brown case, Judge Dave Ling of the US District Court in AZ declared segregation unconstitutional in *Gonzales v Sheely*. At the time the Tolleson School District policy was “That all children of persons of Mexican or Latin descent or extraction, though citizens of the United States of America, shall be, have been and now are excluded from attending, using, enjoying and receiving the benefits of the education, health and recreation facilities of certain schools within their district and system. That said children of Mexican or Latin descent or extraction are now and have been segregated and required to and must attend and use that certain school in said district and system, reserved for and attended solely and exclusively by children and persons of Mexican or Latin descent or extraction, while other schools are maintained, attended and used exclusively by and for the persons and children purportedly known as white or Anglo-Saxon children.” The Court further found “There is a substantial inequality in the accommodations accorded the petitioners when compared to the facilities and accommodations made available by

respondents to children in the district of Anglo-American extraction.” The integration of Latinos in schools did not end the disparate treatment of Latinos in Arizona. Over the last several years we have seen thinly veiled legislation that would have a disparate impact on the Latino community.

But blacks and Latinos were not the only minorities discriminated against in Arizona. During World War II Arizona had two of the largest internment camps, where American citizens, of Japanese descent, were rounded up and held as prisoners, the Gila River Relocation Camp, and the Poston Relocation Camp. These camps were open for three years, and at their peak had a combined 31,000 prisoners.

The Equal Rights Amendment was written in 1923 in order to guarantee women the same rights as men; however it was not introduced in Congress until 1972. Despite passing both houses of Congress, it failed to receive the necessary state ratifications. The clearest evidence that men and women are not treated equally in society is the uneven pay scales. In 1967 women only earned about 58 cents to a man's dollar. In 2010 women who worked full time, year round, still only earned 77 percent of what men earned all this despite what Bob Thaves, the Frank and Ernest cartoonist pointed out when asked about Fred Astaire "Sure he was great, but remember Ginger Rogers did everything he did, backwards and in high heels".

The Society for Human Rights becomes the first gay rights organization in 1924, and other organizations followed. It wasn't until 1962, that Illinois became the first state to decriminalize homosexual acts between consenting adults. In 1969 the Stonewall Riots take place in Greenwich Village NY, this three day riot is often credited with igniting the gay rights movement. Astonishingly it wasn't until 1973 that the American Psychiatric Association removed homosexuality from its list of mental

disorders. And while in 1977 in Miami the first civil rights ordinance prohibiting discrimination based upon sexual orientation is passed, in the next election over 70% of the voters overturned the ordinance. In 1980 the Democratic Party added sexual orientation to the list of protected classes on their plank. Two years later Wisconsin becomes the first State to prohibit discrimination based on sexual orientation. In 1984 the City of Berkeley becomes the first to offer its employees domestic partnership benefits. In 2000 Vermont becomes the first state to recognize civil unions. The recognition of civil unions in lieu of marriage harken back to the separate but equal days. In 2004 Massachusetts becomes the first state to allow same sex marriage. Currently eight states and the District of Columbia recognize same sex marriage. Recently some states, like Arizona, have passed laws banning same sex marriage - the Supreme Court is currently deciding cases on the matter. Once we know the outcome of these cases, we will be able to measure our proximity to equality.

So we have made strides in several areas, for ethnic minorities, women and members of the LGBTQ communities. What is clear is that we still have not reached the ideal set forth in the Declaration of Independence that "All men are created equal." But perhaps this ideal is not what we should be striving for. The ideal professed signifies that at the beginning of our existence we are "Created Equal." But no two people are the same; and that is a blessing, because it is in our differences that we find the most valuable information that we can offer other people. If every person could sing like Luciano Pavarotti, or dance like Mikhail Baryshnikov we would take for granted the beauty and grace with which they perform. Furthermore when we combine our uniqueness we achieve a result that is impossible otherwise; one merely needs to listen to Walk This Way from Run DMC and Aerosmith to hear this principle in action. So if we shouldn't seek to have "All men created equal," then

what should we strive for? I think the answer is closer than you would guess – if we replaced the C in created with a T – All Men Treated Equal – when we achieve this – we will be at our true destination.